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INFO RUEHZS/ASSOCIATION OF SOUTHEAST ASIAN NATIONS
RUEHKO/AMEMBASSY TOKYO 1031
RUEHBJ/AMEMBASSY BEIJING 4436
RUEHBY/AMEMBASSY CANBERRA 1454
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UNCLAS SECTION 01 OF 06 JAKARTA 003035

SIPDIS

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DEPT FOR EAP/MTS AND EB/ESC/IEC
DEPT PASS USTR FOR KATZ AND BROOKS
DEPT PASS OPIC, EXIM, TDA
TREASURY FOR IA-SETH SEARLS
DOE FOR CUTLER/PI-32 AND GILLESPIE/PI-32
COMMERCE FOR 4430/BERLINGUETTE

E.O. 12598: N/A

TAGS: [ECON](#) [EINV](#) [ENRG](#) [ETRD](#) [EFIN](#) [PGOV](#) [ID](#)

SUBJECT: USABC SEEKS BUSINESS OPPORTUNITIES IN JAKARTA

Ref: A)Jakarta 3010 (SBY Lays Out Priorities)

B)Jakarta 2969 (Time Magazine Libel Case)

¶1. (SBU) Summary. President Susilo Bambang Yudhoyono (SBY) and seven cabinet ministers told a U.S.-ASEAN Business Council (USABC) delegation that Indonesia desires closer business and investment ties with U.S. companies. The five-day trade mission to Jakarta ran from October 22 - 26. Vice President Jusuf Kalla told the delegation on October 24 that Indonesia wants to capitalize on its hard-won macroeconomic stability to draw in foreign investment and technology. He promised to work cooperatively to address U.S. business concerns about the investment climate. He struck a discordant note, however, when he seemed to defend the GOI's criminal prosecution of Newmont Mining Co. Foreign Minister Wirajuda said The U.S. should demonstrate engagement by signing the ASEAN Treaty of Amity and Cooperation TAC. (SBY meeting reported ref A.)

¶2. (SBU) Summary Continued. USABC President Matt Daley told GOI interlocutors throughout the five-day visit that most of the companies on the delegation have been long-term, socially responsible investors in Indonesia. He said American companies want to be productive partners in building Indonesia's future. USABC leaders also proposed establishing a university-based governance and anti-corruption research institute in Indonesia. Despite the good atmospherics, USABC delegates said concerns over the foreign investment negative list, contract sanctity, judicial impartiality, weak infrastructure, and inflexible labor laws hinder greater U.S. investment. End Summary

Ambassador on Past, Present, and Future

¶3. (SBU) Ambassador Hume kicked off the delegation's week with an October 22 breakfast address highlighting the messages we have stressed with GOI economic contacts. The Ambassador underlined that the USG is focused on Indonesia's future and that we are uninterested in re-litigating past business disagreements. He said we continue to urge the GOI to draw a line under past investment disputes by resolving them in a transparent, rule-based manner that honors contractual commitments. Once the past is indeed past, he said, we have stressed the importance of clarifying the present

rules of the road for foreign investors. Certainty and predictability are crucial in attracting the multi-billions of dollars of foreign investment that Indonesia needs to lower poverty and unemployment. With the past put to rest and the present clarified, Ambassador Hume said the real challenge for the GOI is to create a vision of the future for Indonesia. He stressed that foreigners can help make that vision a reality, but that the crucial decisions lie with the GOI and their business leaders.

USABC Stresses Long-Term Partnerships

14. (SBU) Throughout the week, USABC President Matt Daley picked up on the Ambassador's themes and stressed to his GOI hosts that the majority of U.S. companies on the delegation have a long history of socially responsible investment in Indonesia. He contrasted the partnership-oriented long-term role that American companies have played in Indonesia with those of other countries that have sought only a mercantilist relationship. USABC delegates uniformly praised the courageous political decisions SBY has taken in the first three years of his administration. They said his strong leadership has been a key factor in resurgent foreign interest in doing business in Indonesia. Nonetheless, throughout the trip USABC delegates said they remained concerned by several issues that inhibit trade and investment. They are concerned by the expansive nature of the recent foreign investment negative list. They worry about threats to contract sanctity. The recent Time libel case (ref B) has renewed their disquiet over judicial impartiality. Weak energy and transportation infrastructure make Indonesia less competitive than its neighbors. Inflexible labor laws hinder greater foreign investment by dramatically raising the costs of hiring and firing workers in response to changing market conditions.

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15. (U) USABC leaders made a pitch in all their meetings with GOI officials for a proposal to establish a university-based governance and anti-corruption research institute in Indonesia. USABC Vice Chairman Rod Hills is leading the initiative. Coordinating Minister Boediono, Finance Minister Sri Mulyani, BKPM Chairman Lutfi, and former Foreign Minister Ali Alatas offered their support. USABC will work with Indonesian and American companies to finance this project, said Hills. The proposed Indonesian institute would be part of the Hills Program on Governance (HPG) at the Washington-based Center for Strategic and International Studies (CSIS) and its five HPG centers worldwide. CSIS will host a workshop in Jakarta in early 2008 to scope the issues and framework for the proposed research institute. USABC President Matt Daley made reference throughout the week to Ambassador Hume's briefing for the delegates and stressed to GOI officials that USABC has its focus firmly fixed on Indonesia's future and is not seeking to re-litigate past disputes. Hills and Daley stressed that the HPG was offered in that spirit.

VP Kalla: RI Needs Foreign Capital and Technology

16. (SBU) Vice President Jusuf Kalla told visiting delegates of the U.S.-ASEAN Business Council (USABC) on October 24 that Indonesia plans to capitalize on its hard-won macroeconomic stability to attract greater levels of foreign investment and technology. He promised to work cooperatively to address U.S. business concerns about the investment climate. Noting the almost-daily new highs for crude oil benchmarks, he made a pitch for greater U.S. upstream oil and gas investment. Kalla said that Indonesia, like most of Asia, will need to focus on efficiency and greater use of technology to overcome high global oil prices since "it is not always possible to use market prices for oil" in the consumer market. Bountiful investment opportunities exist for U.S. companies in the biofuels sector, said Kalla.

17. (SBU) Kalla freely offered that the GOI still faces hurdles in attracting foreign investment. Bureaucracy and poor infrastructure create disincentives for foreign investors, according to Kalla, and the GOI is continuing to work on these problems. Noting that lack

of electricity is a powerful disincentive, Kalla invited U.S. companies to be part of the solution by building power plants. A delegate later told Kalla that greater foreign infrastructure investment will require the GOI to be more transparent and consistent in explaining the terms and conditions under which it will provide guarantees and other forms of financial support for infrastructure.

18. (SBU) In response to a delegate's concern about the recent \$111 million libel judgment against Time magazine, Kalla said rule of law and anti-corruption issues were central to the GOI's agenda. He noted that judges will see their salaries doubled next year, but added that the entire judiciary needs greater training and more accountability and transparency. Kalla struck a discordant note, however, when he followed up by defending the GOI's prosecution of Newmont Mining Co. on criminal pollution charges. "What would happen to them in California?" asked Kalla. "They would be in jail," he said, ignoring that the Indonesian court that heard the case dismissed all charges, completely rejecting the GOI's case. On the Time case, Kalla told the Time Warner delegate to take heart because "you have a good lawyer and you just need to let the system work." Kalla acknowledged problems with a labor system that grants 100 weeks of severance pay to dismissed workers. However, he smiled and added, "We understand your concerns, but salaries are not so big here." Kalla closed the meeting with a promise to work together to address U.S. business concerns with the negative list for foreign investment.

Finance Minister: Tax Arrears Cleaned Up

19. (U) Finance Minister Sri Mulyani Indrawati highlighted progress on the Ministry's reform roadmap and discussed areas for further improvement in an October 26 meeting with the delegation. The Ministry now spends 50% of its budget on salaries, part of its government-wide model for civil service reform, according to

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Mulyani. The Tax Directorate has cleaned up all its arrears, she claimed, which will now allow it to begin evaluation of government-wide arrears. At Indonesia's largest port Tanjung Priok, the Ministry has revamped customs processing, replacing 1,300 workers with 600 new workers while increasing overall customs productivity. The Finance Ministry will focus on Tanjung Priok as a first step toward implementing the ASEAN single window for customs, she said.

110. (U) Mulyani also looked beyond her Ministry and commented on larger government reform efforts. She acknowledged that the judicial system is critical to many Finance Ministry efforts, particularly foreign investment disputes. She conceded the judicial system needs to be improved, but cautioned that the demand for change is different from the capacity for change. Inadequate training of judges, weak court administration, and increasing demand for judges in newly established districts lowers overall judicial quality and can lead to adverse decisions. She cited the Asian Pulp and Paper case as an example of the challenges they face. Two of the three judges who ruled against foreign investors in the case were religious judges, who lacked experience to handle such a complex foreign investment dispute, according to Mulyani. Aside from the judicial system, Mulyani said that the larger reform process required close coordination with other ministries, including the police and military.

SOEs: One Down, Hundreds to Go

111. (SBU) In his October 23 meeting, Minister of State Owned Enterprises (SOE) Sofyan Djalil told delegates he will emphasize SOE privatization to increase economic competition. He pointed to the March 2007 privatization of the National Bank of Indonesia (BNI) as a success and pledged that two more SOEs would be up for initial public offerings before the end of this year with a goal of 16 more in 2008. The Ministry is actively seeking investors for the steel, airline and shipping industries, said Djalil. He said that while SOEs enjoy a high level of technical capacity, management and

financial capacity are weak. Delegates asked Djalil to push the GOI to assign foreign commercial disputes to specially trained judges. He demurred, but did say legal system reform is a GOI priority and that they welcome international cooperation.

¶12. (SBU) Djalil called Garuda, the nation's flagship air carrier, "a big headache." He said he hopes to complete restructuring of the carrier by year's end with an IPO brought to market by 2010. He cautioned that Garuda will be the national airline for many years to come and that the foreign ownership limit is not likely to rise above 49% anytime soon. Djalil said Garuda's past problems were due to mismanagement and political intervention. He said the airline will operate both Boeing and Airbus for the near future but may eventually choose one brand exclusively. Although the Minister spoke hopefully of Boeing building a regional maintenance center in Indonesia, Boeing told us the company had only committed to doing an audit of Garuda's maintenance facility.

Foreign Minister Says Reform Speeding Ahead

¶13. (SBU) Foreign Minister Hassan Wirajuda told delegates on October 24 that Indonesia remains committed to implementing fully the political and economic reforms begun in response to the 1997 Asian financial crisis. On the political front, Indonesia's democratization is proceeding smoothly, with all local officials slated to be directly elected by 2009. Wirajuda reminded the audience that the GOI continues to campaign against corruption and reviewed a number of successes on that front. He also said Indonesia, in cooperation with the United States, had made progress against terrorism and was working to promote moderate Islam and dialogue between Islam and the West.

¶14. (SBU) In response to several delegates' questions, Wirajuda discussed Southeast Asian regional integration at length. ASEAN is one of the world's most economically dynamic regions, he said, adding that the emerging East Asian regional order, including the

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East Asian Summit, should be centered on ASEAN. Indonesia, he said, had an inclusive vision of Asia. He strongly urged the U.S. to remain engaged in the region and to sign the ASEAN Treaty of Amity and Cooperation (TAC).

¶15. (SBU) TimeWarner's Hugh Stephens asked about Indonesia's progress on corruption and noted that the recent decision against Time Magazine sent a negative signal to foreign investors. Wirajuda said he understood the situation and explained that the case was initiated 6 years ago, when the political climate in Indonesia was different from today. He acknowledged, however, that Indonesia's reforms were still a process and underscored Indonesia's commitment to making progress on this front.

Parliament Chief Promises Better Investment Climate

¶16. (U) During a October 24 meeting with Indonesian House of Representatives Chairman (DPR) Agung Laksono, USABC members underscored their collective dedication to long-term business relations with Indonesia. Noting USABC's decision to finance a new governance center in Indonesia, USABC founder Rod Hills emphasized the group's commitment to working with the GOI to improve the business climate by battling corruption and promoting good governance. Hills praised the progress Indonesia had already made on the good governance front, but warned a rash of disturbing judicial decisions could raise Indonesia's business profile for all the wrong reasons. Delegates welcomed Laksono's rather unusual offer of assistance in settling some of the judicial disputes likely to imperil foreign investment.

¶17. (U) Laksono thanked the USABC for its investments and pledged to continue to work to make Indonesia an attractive destination for foreign companies. Laksono briefed the group on his legislative agenda, and noted that several pending laws would enhance Indonesia's investment climate. Next year's budget, he added, would

triple the amount of money set aside for infrastructure development.

Turning to the notorious Time magazine lawsuit, Laksono characterized the \$111 million decision against Time as "unfortunate," and expressed regret that he could not personally intervene as DPR Chairman. According to Laksono, the decision had negative implications both for press freedom in Indonesia and foreign investment. Responding to a question on the increasing prevalence of nationalism, Laksono argued that in a break from the past nationalism was a productive force helping to increase Indonesia's competitiveness.

Telecom Ministry Wants 'Healthy Competition'

¶18. (SBU) Acting Director General Freddy Tulung in the Ministry of Communications and Information (MCI) told delegates on October 25 that the Indonesian telecommunications market is growing steadily. They underscored the GOI's commitment to healthy competition within the information and communications technology (ICT) sector. Tulung said GOI telecoms priorities include improving human resource capacity and increasing the amount of local content in broadcasting and telecommunications.

¶19. (SBU) USABC delegates raised the issue of foreign ownership limits for telecoms (65% for cellular operators and 49% for fixed-line operators) outlined in the negative list. Ministry officials said they have to follow the law, but reiterated they strongly desire partnerships with U.S. businesses for local ICT manufacturers and local independent software vendors. A Qualcomm delegate voiced concern over the GOI's offer of a free 2.3GHz frequency license to the winner of the government's universal service obligation tender. She said this would be unfair to high speed data service providers who are paying hundreds of millions of dollars for frequency licenses. Ministry officials said they planned to re-examine the frequency license issue to improve competition and optimization of frequency usage. Qualcomm also appealed for the GOI to take a neutral position on the technology to be licensed to for mobile television. The GOI has not yet made a decision on this, according to Tulung.

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Industry Minister: Energy Diversification Key

¶20. (SBU) Industry Minister Fahmi Idris told delegates on October 24 that energy security is crucial to a vibrant Indonesian industrial sector. He said the GOI is seeking increased international energy partnerships, and cited the recent MOU with Iceland on geothermal power production as one he would like to see replicated. He added that Chinese investors, who wish to take advantage of Kalimantan's rich coal deposits, are looking to build energy-intensive steel mills in the province. Idris said oil and gas deposits in Indonesia are diminishing to the point that the GOI must promote new and alternative forms of energy, including Coal Bed Methane (CBM) and coal liquefaction. His statement brought a response from U.S. energy delegates, who said Indonesia has plenty of conventional oil and gas still in the ground. They said the GOI only needed to get the proper systems of financial incentives in place, while executing upstream regulatory oversight more efficiently and quickly. A Ford Motor Co. delegate told Idris that the GOI's vehicle luxury tax continues to be an impediment to new market entrants and was the primary reason they chose to build their new factory in Thailand, rather than Indonesia.

ISO: Alternative and Clean Energy Deals

¶21. (SBU) On 26 October, Minister of Energy and Mineral Resources Purnomo Yusgiantoro told delegates that Indonesia wants U.S. investment in the downstream energy sector. He said the new National Energy Council, which he will chair, will include government and industry stakeholders and shows the GOI is serious about attracting foreign investment. Purnomo also emphasized the attractive opportunities in coal production, CBM, and liquefaction.

He said his ministry has been charged by President Yudhoyono with training larger numbers of medium-skilled workers who can work outside Indonesia on the many international oil and natural gas projects that are short of workers. He described the status of the pending mining law, but did not give the impression it would pass anytime soon.

¶22. (SBU) On electricity, Purnomo told delegates that projects using renewable and clean fuels can bypass the normal tender process and go straight into direct negotiations with state utility PLN. He urged U.S. firms to take advantage of this accelerated development plan and to partner with Indonesia on a whole range of renewable and clean energy projects. Purnomo said the Fast Track electricity building program remains on schedule to bring 6900 MW on-line by ¶2010. Energy company and infrastructure delegates requested Purnomo's help in dealing with the VAT implications of temporarily bringing in deep water drilling rigs. Purnomo agreed that Indonesia would benefit from the consortium's plan. He said the tax laws are complicated, however, and that his ministry continues to disagree with Finance over taxation of oil and gas Production Sharing Contracts. He closed by saying the GOI remains committed to offering 26 oil and gas exploration blocks for tender during 2007.

DELEGATION LIST

¶23. (U) Daley said this year's delegation is 50 percent larger than last year's. Representatives from the following companies participated in the USABC mission:

- AES Corporation
- The Boeing Company
- Cargill, Inc.
- Caterpillar, Inc.
- Chevron
- PT Coca-Cola Indonesia
- Conoco-Phillips
- Exxon Mobil
- Federal Express
- Ford Motor Company
- Freeport McMoRan Copper & Gold, Inc.
- General Electric Company

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- The Hills Companies
- International Paper Company
- Island Power
- JHPIEGO (An international health organization affiliated with Johns Hopkins University)
- Johnson and Johnson
- Kraft Foods
- Marathon Oil
- McDermott International
- Microsoft Corporation
- Monsanto Company
- Oracle Corporation
- QUALCOMM
- PT HM Sampoerna Tbk
- Star TV (News Corporation)
- Time Warner, Inc.
- United Parcel Service

HUME